

Executive Summary – Enforcement Matter – Case No. 49521
Brazosport Independent School District
RN101231652
Docket No. 2014-1558-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

BISD Stephen F. Austin School, 7351 Stephen F. Austin Road, Freeport, Brazoria County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: January 23, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$645

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$645

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: \$117

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 29, 2014 through October 10, 2014

Date(s) of NOE(s): October 10, 2014

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Violation Information

1. Failed to comply with the maximum contaminant level for total coliform during the months of July, August, and September 2014 [30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
2. Failed to timely post public notification and submit a copy of the public notification to the Executive Director ("ED") regarding the failure to submit disinfectant level quarterly operating reports ("DLQORs") for the third and fourth quarters of 2013 [30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f)].
3. Failed to timely post consumer notification of lead tap water monitoring results at the locations that were sampled and failed to submit to the TCEQ a copy of the consumer notification and certification that the consumer notification has been distributed to the persons served at the locations in a manner consistent with TCEQ requirements [30 TEX. ADMIN CODE § 290.117(i)(6) and (j)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On October 22, 2014, the Respondent posted public notice and submitted a copy of the public notice to the ED with a signed certificate of delivery certifying that public notice was issued regarding the failure to submit DLQORs during the third and fourth quarters of 2013.
- b. On October 24, 2014, the Respondent posted the lead tap water monitoring results at the lead sample locations and submitted certification to the TCEQ of the consumer notification and certification that the consumer notification has been distributed to the persons served at the locations in a manner consistent with TCEQ requirements.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Begin complying with applicable coliform monitoring requirements by providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility; and

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ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility including but not limited to providing notification for the failure to collect routine samples.

b. Within 45 days, submit written certification of compliance with Ordering Provision a.ii.

c. Within 225 days, submit written certification of compliance with Ordering Provision a.i.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Katelyn Samples, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4728; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Stephen West, Director of Operations, Brazosport Independent School District, P.O. Box Z, Freeport, Texas 77542

Karin Holacka, Superintendent, Brazosport Independent School District, P.O. Box Z, Freeport, Texas 77542

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ
DATES

Assigned 13-Oct-2014
PCW 21-Oct-2014 Screening 21-Oct-2014 EPA Due 31-Dec-2014

RESPONDENT/FACILITY INFORMATION

Respondent Brazosport Independent School District
Reg. Ent. Ref. No. RN101231652
Facility/Site Region 12-Houston Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 49521
Docket No. 2014-1558-PWS-E
Media Program(s) Public Water Supply
Multi-Media
No. of Violations 3
Order Type Findings
Government/Non-Profit Yes
Enf. Coordinator Katelyn Samples
EC's Team Enforcement Team 1
Admin. Penalty \$ Limit Minimum \$50 Maximum \$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$480

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 10.0% Enhancement Subtotals 2, 3, & 7 \$48

Notes Reduction for High Performer classification and enhancement for four NOV's with same/similar violations.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts \$114
Estimated Cost of Compliance \$263
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$528

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$528

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$645

DEFERRAL 0.0% Reduction Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$645

Screening Date 21-Oct-2014

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PCW

Respondent Brazosport Independent School District

Policy Revision 4 (April 2014)

Case ID No. 49521

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101231652

Media [Statute] Public Water Supply

Enf. Coordinator Katelyn Samples

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction for High Performer classification and enhancement for four NOVs with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 10%

Screening Date 21-Oct-2014

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PCW

Respondent Brazosport Independent School District

Policy Revision 4 (April 2014)

Case ID No. 49521

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101231652

Media [Statute] Public Water Supply

Enf. Coordinator Katelyn Samples

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.109(f)(3) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the Maximum Contaminant Level for total coliform during the months of July, August, and September 2014.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes As a result of the exceedances, persons served by the Facility have been exposed to significant amounts of contaminants which do not exceed levels that are protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 3

92 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$450

Three monthly events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$106

Violation Final Penalty Total \$495

This violation Final Assessed Penalty (adjusted for limits) \$495

Economic Benefit Worksheet

Respondent Brazosport Independent School District
Case ID No. 49521
Reg. Ent. Reference No. RN101231652
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	1-Jul-2014	30-Sep-2014	1.17	\$6	\$100	\$106
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount for additional sampling and oversight that could have prevented the exceedance, calculated for the months in which the exceedances occurred.

Approx. Cost of Compliance

\$100

TOTAL

\$106

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PCW

Respondent Brazosport Independent School District

Policy Revision 4 (April 2014)

Case ID No. 49521

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101231652

Media [Statute] Public Water Supply

Enf. Coordinator Katelyn Samples

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.122(c)(2)(A) and (f)

Violation Description

Failed to timely post public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit Disinfectant Level Quarterly Operating Reports for the third and fourth quarters of 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

At least 70% of the rule requirements were met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 2

181 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$20

Two single events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$20

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$22

This violation Final Assessed Penalty (adjusted for limits) \$100

Economic Benefit Worksheet

Respondent Brazosport Independent School District
Case ID No. 49521
Reg. Ent. Reference No. RN101231652
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	11-Oct-2013	22-Oct-2014	1.03	\$5	n/a	\$5
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10	11-Oct-2013	22-Oct-2014	1.03	\$1	n/a	\$1

Notes for DELAYED costs

Estimated amount to implement improvements to the Facility's process, procedures, guidance, training, and/or oversight to ensure that public notice ("PN") is posted and reported to the Executive Director. The date required is the date the PN should have been posted. The final date is the date the PN was submitted.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$110

TOTAL

\$6

Screening Date 21-Oct-2014

Docket No. 2014-1558-PWS-E

PCW

Respondent Brazosport Independent School District

Policy Revision 4 (April 2014)

Case ID No. 49521

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101231652

Media [Statute] Public Water Supply

Enf. Coordinator Katelyn Samples

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.117(i)(6) and (j)

Violation Description

Failed to timely post consumer notification of lead tap water monitoring results at the locations that were sampled and failed to submit to the TCEQ a copy of the consumer notification and certification that the consumer notification has been distributed to the persons served at the locations in a manner consistent with TCEQ requirements. Specifically, the Respondent did not timely post the consumer notification for the persons served at the locations sampled nor did the Respondent timely submit a copy of the consumer notification or the required certification to the TCEQ for the 2013 monitoring period.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

At least 70% of the rule requirements were met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1

298 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$10

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$10

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$11

This violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent Brazosport Independent School District
Case ID No. 49521
Reg. Ent. Reference No. RN101231652
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$53	31-Dec-2013	24-Oct-2014	0.81	\$2	n/a	\$2

Notes for DELAYED costs

Estimated amount to prepare and post the consumer notification for the 2013 monitoring period for persons served at the locations that were sampled and mail a copy of the consumer notification and certification to the TCEQ ((\$0.50 x 5 sample locations + \$50) x 1 monitoring period). The required date is the date the consumer notification was due. The final date is the date the consumer notice was submitted.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$53

TOTAL

\$2

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PENDING Compliance History Report for CN600259576, RN101231652, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600259576, Brazosport Independent School District **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN101231652, BISD STEPHEN F AUSTIN SCHOOL **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 7351 Stephen F. Austin Road, Freeport, Texas

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
0200442

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: November 18, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 18, 2009 to November 18, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Katelyn Samples

Phone: (512) 239-4728

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

Customer, Respondent, or Owner/Operator:	CN600259576, Brazosport Independent School District	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN101231652, BISD STEPHEN F AUSTIN SCHOOL	Classification: NOT APPLICABLE	Rating: N/A

Component Appendices

Appendix A

All NOVs Issued During Component Period 11/18/2009 and 11/18/2014

- | | | | | | |
|----|--------------|---|-----------|-------------|--------------------------|
| 1* | Date: | 08/01/2014 | (1197939) | CN600259576 | Classification: Moderate |
| | Self Report? | NO For Informational Purposes Only | | | |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.109(f)(3) | | | |
| | Description: | TCR MCL Violation 07/2014 - System exceeded a maximum contaminant level. | | | |
| | | | | | |
| 2* | Date: | 08/18/2014 | (1197939) | CN600259576 | Classification: Moderate |
| | Self Report? | NO For Informational Purposes Only | | | |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.109(f)(3) | | | |
| | Description: | TCR MCL Violation 08/2014 - System exceeded a maximum contaminant level. | | | |
| | | | | | |
| 3 | Date: | 09/11/2014 | (1197939) | CN600259576 | Classification: Moderate |
| | Self Report? | NO For Informational Purposes Only | | | |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f) | | | |
| | Description: | DLQOR MR PN 4Q2013 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the fourth quarter of 2013. | | | |
| | | Classification: Moderate | | | |
| | Self Report? | NO For Informational Purposes Only | | | |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f) | | | |
| | Description: | DLQOR MR PN 3Q2013 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the third quarter of 2013. | | | |
| | | | | | |
| 4 | Date: | 10/02/2014 | (1197939) | CN600259576 | Classification: Moderate |
| | Self Report? | NO For Informational Purposes Only | | | |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.109(f)(3) | | | |
| | Description: | TCR MCL Violation 09/2014 - System exceeded a maximum contaminant level. | | | |

* NOVs applicable for the Compliance History rating period 9/1/2009 to 8/31/2014

Appendix B

All Investigations Conducted During Component Period November 18, 2009 and November 18, 2014

- | | | |
|--------|------------------|--|
| Item 1 | October 06, 2014 | (1197939)
For Informational Purposes Only |
| Item 2 | October 10, 2014 | (1198014)
For Informational Purposes Only |

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2009 and 08/31/2014.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BRAZOSPORT INDEPENDENT
SCHOOL DISTRICT
RN101231652**

§ **BEFORE THE**
§
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2014-1558-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the Brazosport Independent School District ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 7351 Stephen F. Austin Road in Freeport, Brazoria County, Texas (the "Facility") that has approximately

four service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted from September 29, 2014 through October 10, 2014, TCEQ staff documented that the Respondent exceeded the Maximum Contaminant Level ("MCL") for total coliform during the months of July, August, and September 2014.
3. During a record review conducted from September 29, 2014 through October 10, 2014, TCEQ staff documented that the Respondent did not timely post public notification regarding the failure to submit the disinfectant level quarterly operating reports ("DLQORs") for the third and fourth quarters of 2013.
4. During a record review conducted from September 29, 2014 through October 10, 2014, TCEQ staff documented that the Respondent did not timely post lead tap water monitoring results at the lead sample locations and did not submit certification to the TCEQ of the consumer notification for the 2013 monitoring period.
5. The Respondent received notice of the violations on October 15, 2014.
6. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On October 22, 2014, the Respondent posted public notice and submitted a copy of the public notice to the Executive Director with a signed certificate of delivery certifying that public notice was issued regarding the failure to submit DLQORs during the third and fourth quarters of 2013.
 - b. On October 24, 2014, the Respondent posted the lead tap water monitoring results at the lead sample locations and submitted certification to the TCEQ of the consumer notification and certification that the consumer notification has been distributed to the persons served at the locations in a manner consistent with TCEQ requirements.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the MCL for total coliform during the months of July, August, and September 2014, in violation of 30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted from September 29, 2014 through October 10, 2014.

3. As evidenced by Findings of Fact No. 3, the Respondent failed to timely post public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit DLQORs for the third and fourth quarters of 2013, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f), as documented during a record review conducted from September 29, 2014 through October 10, 2014.
4. As evidenced by Findings of Fact No. 4, the Respondent failed to timely post consumer notification of lead tap water monitoring results at the locations that were sampled and failed to submit to the TCEQ a copy of the consumer notification and certification that the consumer notification has been distributed to the persons served at the locations in a manner consistent with TCEQ requirements, in violation of 30 TEX. ADMIN CODE § 290.117(i)(6) and (j), as documented during a record review conducted from September 29, 2014 through October 10, 2014.
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Six Hundred Forty-Five Dollars (\$645) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Six Hundred Forty-Five Dollar (\$645) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Six Hundred Forty-Five Dollars (\$645) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Brazosport Independent School District, Docket No. 2014-1558-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Begin complying with applicable coliform monitoring requirements by providing water that meets the provisions regarding microbial contaminants, in accordance with TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility; and
 - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility including but not limited to providing notification for the failure to collect routine samples, in accordance with 30 TEX. ADMIN. CODE § 290.122.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a.ii, in accordance with Ordering Provision No. 2.d below.
 - c. Within 225 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a.i, in accordance with Ordering Provision No. 2.d below.
 - d. The written certifications of compliance required by Ordering Provisions Nos. 2.b and 2.c shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public, and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certifications shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with copies to:

Public Water Supply Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission,

including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ramon Davila Jr
For the Executive Director

3/25/15
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the Brazosport Independent School District. I am authorized to agree to the attached Agreed Order on behalf of Brazosport Independent School District, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Brazosport Independent School District waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Stephen West
Signature

12/4/2014
Date

STEPHEN WEST
Name (Printed or typed)
Authorized Representative of
Brazosport Independent School District

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.